

Senate Bill No. 1879

CHAPTER 770

An act to amend Section 1102.6b of the Civil Code, relating to real property, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 2002. Filed
with Secretary of State September 21, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1879, Poochigian. Real estate: disclosures.

Existing law requires certain disclosures to be made upon the transfer of real estate and prescribes the manner and form of the disclosures. Existing law requires the seller of real property subject to a continuing lien securing the levy of special taxes pursuant to the Mello-Roos Community Facilities Act, or a fixed lien assessment collected in installments to secure bonds issued pursuant to the Improvement Bond Act of 1915, to make a good faith effort to obtain a disclosure notice concerning the tax assessment from each local agency that levies the tax or collects the assessment, on the property being transferred and deliver it to the prospective purchaser, as long as the notices are made available by the local agency.

Existing law, the Proposition 218 Omnibus Implementation Act, imposes prior notice, protest, and hearing requirements when a local agency levies a new or increased tax or assessment upon real property. Existing law also requires the legislative body of the local agency to designate an office, department, or bureau to prepare a "Notice of Special Assessment" and to furnish a seller of real property with a notice upon request.

This bill would provide that a seller of real property may satisfy its disclosure notice requirement by delivering a disclosure notice that is substantially equivalent, as specified, and obtained from another source, until December 31, 2004.

The bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 1102.6b of the Civil Code is amended to read:
1102.6b. (a) This section applies to all transfers of real property for which all of the following apply:

- (1) The transfer is subject to this article.

(2) The property being transferred is subject to a continuing lien securing the levy of special taxes pursuant to the Mello-Roos Community Facilities Act (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code) or to a fixed lien assessment collected in installments to secure bonds issued pursuant to the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code).

(3) A notice is not required pursuant to Section 53341.5 of the Government Code.

(b) In addition to any other disclosure required pursuant to this article, the seller of any real property subject to this section shall make a good faith effort to obtain a disclosure notice concerning the special tax as provided for in Section 53340.2 of the Government Code, or a disclosure notice concerning an assessment installment as provided in Section 53754 of the Government Code, from each local agency that levies a special tax pursuant to the Mello-Roos Community Facilities Act, or that collects assessment installments to secure bonds issued pursuant to the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), on the property being transferred, and shall deliver that notice or those notices to the prospective purchaser, as long as the notices are made available by the local agency.

(c) The seller of real property subject to this section may satisfy the disclosure notice requirements in regard to the bonds issued pursuant to the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) by delivering a disclosure notice that is substantially equivalent and obtained from another source, until December 31, 2004. For the purposes of this section, a substantially equivalent disclosure notice includes, but is not limited to, a copy of the most recent year's property tax bill or an itemization of current assessment amounts applicable to the property.

(d) If a disclosure received pursuant to subdivision (b), or (c) has been delivered to the transferee, a seller or his or her agent is not required to provide additional information concerning, and information in the disclosure shall be deemed to satisfy the responsibility of the seller or his or her agent to inform the transferee regarding, the special tax or assessment installments and the district. Notwithstanding subdivision (b) or (c), nothing in this section imposes a duty to discover a special tax, assessment installments, or the existence of any levying district not actually known to the agents.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of



Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that prospective purchasers of real property have all the relevant information they need to make an informed decision, and to clarify that substantial compliance by property owners continues to be legally sufficient in the absence of the availability of formal disclosures by public entities, it is necessary that this act take effect immediately.

